

## **REMARKS**

Reconsideration and withdrawal of the objections and rejections of the application respectfully requested in view of the amendments, remarks and enclosures herewith, which place the application in condition for allowance.

### **I. STATUS OF CLAIMS AND FORMAL MATTERS**

Claims 1, 26, 27, 36, 37 and 40 are pending in this application. Claims 1, 26 and 27 have been reinstated and claims 36, 37 and 39 have been amended in accordance with the Examiner's suggestions. No new matter has been added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

### **II. THE OBJECTION TO THE CLAIMS HAVE BEEN OVERCOME**

Claims 1, 26 and 27 were cancelled in error and have been amended in the manner suggested by the Examiner in his Office Action dated 28 February 2006. Claims 35, 38 and 39 have been cancelled.

### **III. THE 35 U.S.C. 112, 2<sup>nd</sup> PARAGRAPH REJECTION HAS BEEN OVERCOME**

Claims 36, 37 and 39 were rejected as allegedly being indefinite.

Claims 36 and 37 have been amended in accordance with the Examiner's suggestion. With regard to claim 39 (now claim 27), the phrase "healthy bacteria" has been deleted from the claim.

### **IV. COMMENT ON DEFECTIVE REISSUE OATH/DECLARATION**

A revised reissue oath/declaration will be filed soon after receipt of this amendment. If the Examiner has not received the revised oath/declaration at the time his next communication is scheduled to be sent, please contact the undersigned.

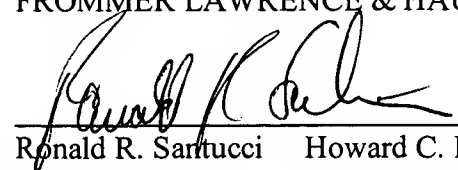
### **CONCLUSION**

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably

from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

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